

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

<b>RICHARD PIOTROWSKI,</b>	:	<b>C.A. No. 06-631-SLR</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>TRIAL BY JURY OF TWELVE</b>
	:	<b>DEMANDED</b>
<b>MAO M. IAN and SUI MAI,</b>	:	
	:	
<b>Defendants/Third-Party Plaintiffs,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>ALLSTATE INSURANCE COMPANY,</b>	:	
	:	
<b>Third-Party Defendant.</b>	:	

**DEFENDANTS/THIRD PARTY PLAINTIFFS'**  
**AMENDED THIRD-PARTY COMPLAINT**

Defendant/Third Party Plaintiffs Ian M. Mao and Sui Mai, aver as follows:

1. Defendant Third Party Plaintiffs have been sued by Plaintiff Richard Piotrowski. A copy of the Original Complaint is attached hereto as Exhibit A.
2. Service can be made on Allstate Insurance Company by service Michael Pedicone, Esquire, 109 W. 7<sup>th</sup> Street, Wilmington, DE 19801.
3. Allstate Insurance Company contracted with Plaintiff Richard Piotrowski to provide automobile insurance to Plaintiff for motor vehicle coverage including, pursuant to the Pennsylvania Statutory Law, uninsured motorist coverage.
4. Defendant/Third Party Plaintiff, has denied liability to the Plaintiff for the matters alleged in the Plaintiff's Complaint, attached hereto as Exhibit A. However, Third Party Plaintiffs assert that if held responsible to the Plaintiff for any and sums whatsoever arising from the accident alleged in Exhibit A, then Third Party Plaintiff is entitled to indemnification and/or contribution from the Third Party Defendant.

5. Third Party Plaintiffs assert that they are entitled to indemnification and /or contribution from Allstate Insurance Company, as Allstate stands in the shoes of a phantom vehicle and its operator that was the proximate cause of the alleged accident and injuries in the Original Complaint.

6. Third Party Defendant, by and through Allstate Insurance Company, is entitled to indemnity and contribution for the negligence of the unknown phantom vehicle that pulled into the path of the Defendant/Third Party Plaintiff on US. Route 13 on or about November 4, 2004. The unknown phantom vehicle's operator was negligent in that he/she failed to keep control of the vehicle, failed to yield to oncoming traffic with the right of way, failed to remain stopped while entering a highway until it was safe to do so, and otherwise was careless and negligent in a manner proximately causing the accident alleged in the Original Complaint of the Plaintiff.

7. As a result of the negligence of the phantom vehicle's operator, Defendant/Third Party Plaintiff swerved to avoid the vehicle, and as a result contacted the vehicle of the Plaintiff. As a result, Third Party Plaintiff has been caused to appear and answer for the allegations contained in the Original Complaint.

**WHEREFORE**, to the extent the Defendants/Third Party Plaintiffs are found liable for any amount of damages to the Plaintiff, then Third Party Plaintiff is entitled to indemnity and/or contribution for any and all such amounts, plus costs and expenses associated and incurred as a result of defending this claim.

CHRISSINGER & BAUMBERGER

/s/David L. Baumberger

DAVID L. BAUMBERGER

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DATED: May 17, 2007



**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

\_\_\_\_\_  
RICHARD PIOTROWSKI  
1006 12<sup>th</sup> Avenue  
Ridley Park, PA 19076

Plaintiff

vs.

MAO M. IAN  
28 Cannon Run  
Newark, Delaware 19702  
and

SUI MAI  
28 Cannon Run  
Newark, Delaware 19702

Defendants

CIVIL ACTION NO.:

JURY TRIAL DEMANDED

**COMPLAINT IN CIVIL ACTION**

**JURISDICTION:**

Jurisdiction is founded upon diversity of citizenship of the parties and the amount in controversy pursuant to 28 U.S.C. Section 1332. Plaintiff is a citizen and a resident of the Commonwealth of Pennsylvania; the Defendant's, Mao M. Ian and Sui Mai, are alleged to be individuals and citizens of the State of Delaware. The amount in controversy exceeds \$100,000.00, exclusive of interest and costs.

**FACTUAL ALLEGATIONS:**

1. Plaintiff, Richard Piotrowski, is an adult individual and a citizen of the Commonwealth of Pennsylvania, residing therein at 1006 12<sup>th</sup> Street, Ridley Park, PA 19076.
2. Defendant, Mao M. Ian, is alleged and therefore averred to be an individual and citizen of the State of Delaware, residing therein at 28 Cannon Run, Newark, Delaware 19702.

3. Defendant, Sui Mai, is alleged and therefore averred to be an individual and citizen of the State of Delaware, residing therein at 28 Cannon Run, Newark, Delaware 19702

4. On or about November 4, 2004, at or about 5:40 p.m., Plaintiff, Richard Piotrowski, was lawfully operating his motor vehicle north on Route 13 in the right lane, approaching the intersection of Route 273, streets and highways in New Castle, Delaware, when he was then and there struck in the rear by the vehicle owned by defendant, Sui Mai, and being permissively operated by Defendant, Mao M. Ian.

5. This accident resulted solely from the negligence, carelessness and recklessness of the aforementioned Defendants and was due in no manner whatsoever to any act or failure to act on the part of the Plaintiff.

6. As a result of the aforesaid accident, Plaintiff, Richard Piotrowski, suffered injuries which are serious and permanent in nature, including, but not limited to: herniated disc at L5-S1; herniated lumbar disc at L4-5; herniated lumbar disc at L3-4; cervical disc bulge at C4-5; cervical disc protrusion at C5-6; cervical disc protrusion at C6-7; lumbar strain and sprain; cervical strain and sprain; thoracic strain and sprain; myofascitis; post concussion syndrome; contusions, abrasions and lacerations over various portions of his body; post traumatic anxiety and depression; severe damage to his nerves and nervous system; and various others ills and injuries which the plaintiff yet suffers and may continue to suffer for an indefinite time into the future.

7. As a further result of the aforesaid accident, Plaintiff, Richard Piotrowski, has been obliged to receive and undergo medical attention and care and incur various and diverse expenses which the Plaintiff may continue to expend and incur for an indefinite time into the

future, all of which have or may exceed the sum and value recoverable under all applicable Delaware law.

8. As a further result of the aforesaid accident, Plaintiff, Richard Piotrowski, has or may suffer a severe loss of his earnings and an impairment of his earning capacity and power all of which may continue indefinitely into the future and have or may exceed the sums and value recoverable under all applicable Delaware law.

9. As a further result of the aforesaid accident, Plaintiff, Richard Piotrowski, has suffered severe physical pain and trauma, mental upset, anguish and humiliation and may continue to suffer same for an indefinite time into the future.

10. As a further result of the aforesaid accident, the Plaintiff, Richard Piotrowski, has suffered a diminishment in his ability to enjoy life and life's pleasures, all of which he may continue to suffer same for an indefinite time into the future.

11. As a further result of the aforesaid accident, the Plaintiff, Richard Piotrowski, has suffered damages to his motor vehicle and has occurred bills for towing, storage and replacement vehicle rental.

**COUNT I**  
**RICHARD PIOTROWSKI v. MAO M. IAN**

12. Plaintiff hereby incorporates by referenced Paragraphs 1 through 11 as if the same were herein set forth at length.

13. The negligence, carelessness and recklessness of the Defendant, Mao M. Ian, consists of, but is not limited to the following:

- a. failure to properly operate and control the motor vehicle so that it would not become a hazard to persons situated such as Plaintiff;
- b. failure to apply the brakes to avoid an accident;

- c. failure to yield the right way to Plaintiff's vehicle;
- d. failure to keep a proper lookout;
- e. operation of the vehicle at an excessive rate of speed under the circumstances;
- f. following too close.
- g. operation of vehicle in violation of the laws of the State of Delaware governing the operation of motor vehicles on its streets in highways;
- h. negligence, carelessness and recklessness at law;
- i. such other and further acts of negligence, carelessness and recklessness as will be developed by future discovery in this case.

14. The negligence, carelessness and recklessness of the Defendant, Mao M. Ian, as set forth herein was the proximate and sole cause of the injuries and damages to the Plaintiff and expenses incurred as set forth above.

WHEREFORE, Plaintiff, Richard Piotrowski, demands judgment against the Defendant, Mao M. Ian, for damages, interest and costs of suit in an amount in excess of One Hundred Thousand (\$100,000.00) Dollars.

**COUNT II**  
**RICHARD PIOTROWSKI v. SUI MAI**

15. Plaintiff hereby incorporates by referenced Paragraphs 1 through 14 as if the same were herein set forth at length.

16. The negligence, carelessness and recklessness of the Defendant, Sui Mai, consists of, but is not limited to the following:

a. negligently entrusting a motor vehicle to one known to have the propensities for failure to properly operate and control the motor vehicle so that it would not become a hazard to persons situated such as Plaintiff;

b. negligently entrusting a motor vehicle to one known to have the propensities for failure to apply the brakes to avoid an accident;

c. negligently entrusting a motor vehicle to one known to have the propensities for failure to yield the right way to Plaintiff's vehicle;

d. negligently entrusting a motor vehicle to one known to have the propensities for failure to keep a proper lookout;

e. negligently entrusting a motor vehicle to one known to have the propensities for operation of the vehicle at an excessive rate of speed under the circumstances;

f. negligently entrusting a motor vehicle to one known to have the propensities for following too close;

g. negligently entrusting a motor vehicle to one known to have the propensities for operation of vehicle in violation of the laws of the State of Delaware governing the operation of motor vehicles on its streets in highways;

h. negligence, carelessness and recklessness at law;

i. such other and further acts of negligence, carelessness and recklessness as will be developed by future discovery in this case.

17. The negligence, carelessness and recklessness of the Defendant, Sui Mai, as set forth herein was the proximate and sole cause of the injuries and damages to the Plaintiff and expenses incurred as set forth above.



WHEREFORE, Plaintiff, Richard Piotrowski, demands judgment against the Defendant, Sui Mai, for damages, interest and costs of suit in an amount in excess of One Hundred Thousand (\$100,000.00) Dollars.

Respectfully Submitted,

STAMPONE D'ANGELO RENZI DIPIERO

BY: \_\_\_\_\_  
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DATED: \_\_\_\_\_